

April 6, 2023

**VIA ECF**

Hon. John P. Cronan  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: *Donohue et al. v. Banks et al.*, Docket No. 22-cv-08998 (JPC)

Dear Judge Croman,

As Your Honor may recall, the undersigned represents the Plaintiffs in the above-referenced matter. The undersigned intended to allow Jacquelyn Dainow, Esq. of the New York City Law Department, attorney for the Defendants, to explain the Defendants' position on the issues below.

**Plaintiffs' Position:**

On March 23, 2023, the third-party nursing provider for the Student-Plaintiffs in this matter informed Plaintiffs' Counsel that the Defendant Department of Education ("DOE") failed to pay several invoices for the February 2022-2023 school year. To the Plaintiffs' Counsel's surprise, these invoices pertained to Students for whom the DOE consistently made payments during the 2022-2023 school year, as there are no contested issues about these Students.

On that same day, the Plaintiffs' Counsel emailed Defense Counsel to explain the outstanding, unpaid invoices relating to six (6) Student-Plaintiffs, whose Pendency has not been contested in this matter. The Defense attorney did not respond to this email. Plaintiffs contacted Defense Counsel again on March 27, 2023, to try to resolve any outstanding nursing invoices for February.

The Defense Counsel responded on March 27, 2023, informing the Plaintiffs' Counsel that the DOE "is looking into it." Additionally, on March 28, 2023, Defense Counsel stated that the "DOE is working on processing the invoices."

Unexpectedly, on April 3, 2023, the third-party nursing provider informed Plaintiffs' Counsel that only one (1) of the six (6) outstanding invoices was paid. The DOE paid the nursing services current for Student-Plaintiff H.C., but did not make payments relative to the other five (5) outstanding invoices for nursing.

It was then brought to the Plaintiffs' attention that DOE stopped making payments for those Students', and their related services, that were, and remain, uncontested. This delay is one of many that affects the Student-Plaintiffs attending iBRAIN.

Given that unwarranted delay has become the DOE's *modus operandi*, Plaintiffs' Counsel would like to draw the Court's attention to this delay and *all the* outstanding amounts regarding tuition, transportation, and nursing, where applicable, for Student-Plaintiffs, which are uncontested but remain unpaid. The following chart shows the outstanding amounts of tuition and related services for those Students whose reimbursement has not been contested for specific related services.

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Student Name	IHO Number	Tuition Amount Outstanding	Transportation Outstanding	Nursing Outstanding
S.J.D.	210867	\$66,674.20		\$42,940.00
T.A.	228671	\$71,580.00	\$15,870.00	\$50,963.00
N.A.	228692	\$69,127.00		
M.B.	228803	\$73,119.84		
J.B.	228581	\$145,712.82		
H.C.	228745		\$15,870.00	
A.C.	228674			\$47,234.00
M.C.	228618	\$108,990.60	\$19,656.00	
Z.C.	228720	\$78,938.00		
A.D.	228632	\$66,061.00		
O.F.	232559	69,740.00		\$62,150.00
Y.M.	228539	\$64,835.00		
A.N.	228567	\$68,514.00	\$18,630.00	
D.O.	228527	\$71,580.00		
L.V.	228484			\$58,916.00
R.N.	228885	\$72,806.00		

Plaintiffs' Counsel provided a copy of this letter to Defense Counsel on April 4, 2023, to allow the Defendants to include their position in this letter. Despite several efforts to resolve these issues without judicial intervention, the Defendants have stayed silent as the delay in funding the Students' placements continues.

The Plaintiffs request that the Court Order DOE to pay all outstanding amounts/invoices for the above-referenced Student-Plaintiffs, for tuition, and related services where applicable, within five (5) business days, as the DOE's obligation to make such tuition payments and/or related

services relative to those Students' tuition and applicable related services has, and remains, uncontested.

The Plaintiffs thank the Court for its consideration in this matter.

Respectfully submitted,

*Rory J. Bellantoni*

Rory J. Bellantoni, Esq.

Cc: All Counsel of record via ECF.

By April 21, 2023, Defendants shall file a status letter informing the Court of whether they dispute any of the outstanding invoices, of whether all such disputes will be resolved by the parties' pending motions for summary judgment, and of what progress has been made towards paying the invoices concerning which no dispute exists.

SO ORDERED  
Date: April 7, 2023  
New York, New York

  
JOHN P. CRONAN  
United States District Judge